

LAW OFFICES OF THOMAS J. KELLEY & ASSOCIATES
THOMAS J. KELLEY, ESQUIRE ATTORNEY FOR DEFENDANT
IDENTIFICATION NO. 24777
52 GLENMAURA NATIONAL BOULEVARD
SUITE 201 – GLENMAURA PLAZA
MOOSIC, PA 18507
(570) 343-6570

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

Estate of Mary Kim Surace, by and through :	
her administrators, Maureen Surace and :	
Patrick Surace, who also bring this matter in :	ELECTRONICALLY FILED
their own right, :	
Plaintiffs :	
vs. :	CIVIL ACTION – LAW AND EQUITY
Department of Public Welfare, c/o :	
Pennsylvania Attorney General, :	JURY TRIAL DEMANDED
Northumberland County, Keystone Service :	
Systems, Inc., Keystone Service Systems, :	
North Central PA, Heather Hixson and :	
Andrew Vovakes, :	
Defendants :	NO. 4:04-CV-01354-MM

.....

PRETRIAL MEMORANDUM OF DEFENDANT, ANDREW VOVAKES

COMES NOW, the Defendant, Andrew Vovakes, by and through his counsel,
Thomas J. Kelley & Associates, by Thomas J. Kelley, Esquire, and hereby files its
Pretrialm Memorandum as follows:

A. STATEMENT OF JURISDICTION

Jurisdiction is proper under 28 U.S.C. §§1331, 1343 and 1367.

B. SUMMARY OF FACTS AND CONTENTIONS AS TO LIABILITY

Plaintiff's decedent, Mary Kim Surace, was a mentally disabled woman who
wandered into traffic on Route 11 on the night of December 3, 2003. She was struck by

the vehicle of Defendant, Andrew Vovakes, and later died. Mr. Vovakes was faced with a sudden emergency and had done his best to avoid contact but was unable to do so.

Mr. Vovakes has entered into a Joint Tortfeasor Release with Plaintiffs. This settlement has been approved by the Court. The remaining parties have been asked to enter into a Stipulation removing Mr. Vovakes as a party Defendant from the case.

C. STATEMENT OF UNDISPUTED FACTS

See Plaintiff's Pretrial Memorandum.

D. DAMAGES

See Plaintiff's Pretrial Memorandum.

E. WITNESSES

None.

F. SUMMARY OF TESTIMONY

None.

G. COMMENTS ABOUT PLEADINGS.

Not applicable.

H. SUMMARY OF LEGAL ISSUES

None regarding Defendant Andrew Vovakes.

I. STIPULATIONS DESIRED

Dismissal of Andrew Vovakes.

J. ESTIMATE LENGTH OF TRIAL

3 days.

K. OTHER PERTINENT MATTER

Not applicable.

L. EXHIBITS

None.

M. SPECIAL VERDICT QUESTIONS

None.

N. SETTLEMENT AUTHORITY

Not applicable.

O. CERTIFICATION

Not applicable.

P. REQUEST FOR FINDINGS OF FACT AND LAW

Not applicable.

Q. VOIR DIRE QUESTIONS

None.

R. TELEPHONE NUMBER

Undersigned counsel's cell phone number is (570) 498-4935.

Respectfully submitted,

THOMAS J. KELLEY & ASSOCIATES

Thomas J. Kelley, Esquire

CERTIFICATE OF SERVICE

I, THOMAS J. KELLEY, ESQUIRE, hereby certify that I, this 24th day of February 25, 2005 served a true and correct copy of the foregoing Pretrial Memorandum of Defendant Andrew Vovakes by first class mail, postage pre-paid, from Scranton, Pennsylvania, upon the parties as follows:

Matthew J. Zeigler, Esquire
1525 Washington Boulevard
Williamsport, PA 17701

Thomas Edward Brenner, Esquire
Goldberg, Katzman & Shipman, P.C.
320 East Market Street
Strawberry Square
P.O. Box 1268
Harrisburg, PA 17108-1268

Gerald A. Connor, Esquire
Margolis Edelstein
409 Lackawanna Avenue
Oppenheim Building
Suite 3C
Scranton, PA 18503

THOMAS J. KELLEY & ASSOCIATES

BY: Thomas J. Kelley
Thomas J. Kelley, Esquire